

Assembly Bill No. 1072

CHAPTER 271

An act to amend Section 8879.55 of, and to repeal Section 8879.56 of, the Government Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1072, Eng. Public Transportation Modernization, Improvement, and Service Enhancement Account.

Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, authorizes the issuance of \$19.925 billion of general obligation bonds for transportation purposes, including \$4 billion for allocation to various public transportation purposes. Of this amount, \$3.6 billion is to be deposited in the Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) for allocation, upon appropriation, to transit operators and other agencies for transit purposes. Existing law specifies the process for allocating available funds in the PTMISEA for those purposes appropriated in the Budget Act of 2008. Existing law makes these provisions inoperative on July 1, 2009, and repeals them on January 1, 2010.

This bill would apply these provisions to funds appropriated for these purposes from the PTMISEA by the Budget Act of 2009 and subsequent fiscal years and would make other conforming changes. The bill would require eligible project sponsors to provide the Department of Transportation with project descriptions for each project they plan to fund with PTMISEA funds yet to be appropriated for the duration of the PTMISEA program, and would require the department to transmit that information to the Department of Finance. The bill would authorize a project sponsor to use an allocation in a subsequent fiscal year in order to complete projects that were approved in a previous fiscal year. The bill would authorize a project sponsor, in a particular fiscal year, to loan its allocation to another project sponsor with an identified eligible project under terms and conditions approved by the department. The bill would delete the inoperative and repeal dates, thereby extending the operation of these provisions indefinitely.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 8879.55 of the Government Code is amended to read:

8879.55. For funds appropriated for fiscal year 2009–10 or any subsequent fiscal year in the annual Budget Act from the Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA), established pursuant to paragraph (1) of subdivision (f) of Section 8879.23, for the purposes of paragraph (3) of that subdivision, the following shall apply:

(a) (1) Upon appropriation of funds from PTMISEA, the Controller shall identify and develop a list of eligible project sponsors, as defined in paragraph (2) of subdivision (h), and the amount each is eligible to receive pursuant to the formula in paragraph (3) of subdivision (f) of Section 8879.23. Funds allocated to project sponsors pursuant to this section shall provide each project sponsor with the same proportional share of funds as the proportional share each received from the allocation of State Transit Assistance funds, pursuant to Sections 99313 and 99314 of the Public Utilities Code, over fiscal years 2004–05, 2005–06, and 2006–07. This formula shall apply to the remaining balance of funds in the PTMISEA program.

(2) In establishing the amount of funding each project sponsor is eligible to receive from funds to be allocated based on Section 99313 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each project sponsor, compute the amounts of State Transit Assistance funds allocated to that entity pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each project sponsor, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount appropriated for allocation from PTMISEA.

(3) In establishing the amount of funding each project sponsor is eligible to receive from funds to be allocated based on Section 99314 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each project sponsor, compute the amounts of State Transit Assistance funds allocated to that entity pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each project sponsor, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount appropriated for allocation from PTMISEA.

(4) The Controller shall notify project sponsors of the amount of funding each is eligible to receive from the funds appropriated from PTMISEA in each fiscal year based on actual appropriations and the computations pursuant to subparagraph (D) of paragraph (2) and subparagraph (D) of paragraph (3).

(b) Prior to seeking a disbursement of funds for an eligible PTMISEA capital project, a project sponsor on the list developed pursuant to paragraph (1) of subdivision (a) shall submit to the department a description of the proposed capital project or projects it intends to fund with PTMISEA funds in the current fiscal year. The description shall include all of the following:

(1) A summary of the proposed project, which shall describe the benefit the project intends to achieve.

(2) The useful life of the project, which shall not be less than the required useful life for capital assets pursuant to the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2), specifically subdivision (a) of Section 16727.

(3) The estimated schedule for the completion of the project.

(4) The total cost of the proposed project, including the identification of all funding sources necessary for the project to be completed.

(c) After receiving the information required to be submitted under subdivision (b), the department shall review the information solely to determine all of the following:

(1) The project is consistent with the requirements for funding under paragraph (1) of subdivision (f) of Section 8879.23.

(2) The project is a capital improvement that meets the requirements of the state's general obligation bond law and has a useful life consistent with paragraph (2) of subdivision (b).

(3) The project, or a minimum operable segment of the project, is, or will become, fully funded with an allocation of funds from the PTMISEA, and the funds can be encumbered within three years of the allocation based on the department's review of the project's phase or schedule for completion, as submitted by the project sponsor.

(d) (1) Upon conducting the review required in subdivision (c) and determining the proposed projects to be in compliance with the requirements of that subdivision, the department shall biannually adopt a list of projects eligible for an allocation from the funds appropriated to the account in the applicable fiscal year.

(2) Upon adoption of the list by the department, the department shall provide the list of projects eligible for funding in the current fiscal year to the Controller.

(e) Upon receipt of the information required in subdivision (d), the Controller's office shall commence any necessary actions to allocate funds to the project sponsors on the list of projects, including, but not limited to, seeking the issuance of bonds for that purpose. The total allocations to any

one project sponsor shall not exceed that project sponsor's share of funds from the PTMISEA pursuant to the formula contained in subdivision (a).

(f) The audit of public transportation operator finances already required under the Transportation Development Act pursuant to Section 99245 of the Public Utilities Code shall be expanded to include verification of receipt and appropriate expenditure of bond funds pursuant to this section. Each sponsoring entity receiving bond funds from this account in a fiscal year for which an audit is conducted shall transmit a copy of the audit to the department, and the department shall make the audits available to the Legislature and the Controller for review on request.

(g) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of the state agencies' activities related to the administration of funds from the account, including the administration of funds made available to the department for intercity rail improvements pursuant to paragraph (2) of subdivision (f) of Section 8879.23. The summary, at a minimum, shall include a description and the location of the projects funded from the account, the amount of funds allocated to each project, the status of each project, a description of the public benefit expected from each project, and a designation of any projects that have been subject to an audit under subdivision (f). The department and project sponsors shall provide the commission with necessary information for the preparation of the summary required under this subdivision.

(h) For purposes of this section, the following terms shall have the following meanings:

(1) "Project" means a capital improvement authorized under paragraph (1) of subdivision (f) of Section 8879.23 or a transit capital project, including a bus, rail or waterborne transit capital project, or minimum operable segment thereof, that is consistent with the project sponsor's most recently adopted short-range transit plan, or other publicly-adopted plan that programs or prioritizes the expenditure of funds for transit capital improvements.

(2) "Project sponsor" means a transit operator, including a rail transit, commuter rail, bus, or waterborne transit operator, eligible to receive an allocation of funds under the State Transit Assistance program pursuant to Sections 99314 and 99314.3 of the Public Utilities Code, or a local agency, including a transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, eligible to receive an allocation of funds under the State Transit Assistance program pursuant to Section 99313 of the Public Utilities Code.

(i) A project sponsor that is identified to receive an allocation of funds under this section in a particular fiscal year, but that does not submit a project for funding in that fiscal year, shall retain its funding share and may accumulate and utilize that funding share in a subsequent fiscal year.

(j) Prior to seeking a disbursement of funds in the 2009–10 fiscal year, a project sponsor shall also submit to the department a description of each project it intends to fund with its share of PTMISEA funds that have yet to be appropriated. The description shall include the total dollar amount

requested for each of those projects in each year in which it anticipates use of PTMISEA funds.

(k) The department shall transmit the information received pursuant to subdivision (j) to the Department of Finance, so that a record of the total amount requested by all program recipients is available to help determine the annual appropriation level for the remainder of PTMISEA funds that have yet to be appropriated.

(l) A project sponsor may, in a particular fiscal year, loan its allocation to another project sponsor with an identified eligible project under this section in order to ensure that all allocations in that fiscal year are put to use, under terms and conditions approved by the department.

(m) Allocations may be used in a subsequent fiscal year in order to provide funding to complete projects that were approved by the department in a previous fiscal year.

SEC. 2. Section 8879.56 of the Government Code is repealed.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make statutory changes relative to provisions governing transportation funds to implement the Budget Act of 2009, it is necessary that this act take effect immediately.